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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,440	09/16/2003	Hiroichi Ukei	Q77488	9838
23373	7590	05/02/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			ZIRKER, DANIEL R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/662,440	Applicant(s) UKEI ET AL.	
	Examiner Daniel Zirker	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/03, 4/15/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicants regard as their invention.

2. Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, the claims, i.e. claim 1, appear to contain several translation related informalities and should be carefully corrected. The Examiner notes, e.g. in line 4, after "an uneven portion" insert --of said supporting substrate-- and in line 5 "a shape" is vague and indefinite. In the latter section of the claim the phrase "the maximum stress at an elongation of not more than 50% is larger than the stress at break" is believed to be compared to elements that do not have the same units, and the last phrase "an elongation at break is from 100 to 300%" should be compared against some expressed standard. Additionally, other informalities may exist in this claim and applicants are again urged to carefully correct them.

3. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description

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of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the invention. More particularly, the Examiner finds, in particular, applicants' Examples and comparative Examples to be confusing inasmuch as the embodiment of Example 2 appears to be completely satisfactory, while the embodiments of Comparative Examples 1, 3, and 5, all of which are formed from virtually the identical blend of low density polyethylene and high density polyethylene in a ratio 70% LDPE/30% HDPE as that of Example 2 are clearly found to be inadequate. Furthermore, it appears to the Examiner that all of the embodiments are otherwise essentially prepared in the same manner and as such the specification appears to fail to teach how to make the claimed invention.

5. Claims 1-5 are rejected under 35 U.S.C. § 112, first paragraph as being based upon a non-enabling disclosure.

6. The following is a quotation of the appropriate

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paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

7. A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either Chang, or Brown et al. -957 (Brown -762 is cumulative). Chang and Brown each disclose (note particularly Chang, the Abstract, the Figures, column 1 lines 38-55, column 2 lines 13-29, lines 54-63, column 3 line 64 - column 4 line 12, line 67 - column 5 line 6, Tables 1 and 2, claims 1 and 6; Brown et al. -957, the Abstract, the Figures, column 1 lines 51-65,

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column 2 lines 30-55, column 3 lines 32-46, line 65 - column 4 line 28, Example 1) essential anticipations of at least the independent article claim, each reference disclosing hand tearable adhesive tapes wherein the non-coated adhesive tape side has a suitable genus of a plurality of striations or lines of recess points running substantially transversely across the tape backing (e.g. Chang et al., the Figures, column 1 lines 48-52) such as applicants contemplate. The tape backing can be made by any suitable olefin material such as polyethylene (Chang, column 2 lines 54-56) or polypropylene (Brown et al.) and the references further teach, (e.g. Chang, column 3 line 64 - column 4 line 12) that the properties of the adhesive tape regarding its tearability can be determined by selecting suitable size, depth and pitch of striations for selected thicknesses of the tape, one of ordinary skill being careful not to sacrifice a desired tensile strength. As such, the performance parameters in applicants' claims are believed to be, if not inherently disclosed, an obvious optimization of tearability properties of the adhesive tape structure. Additionally, the transparency parameter of claim 5 is also believed to be either inherent or at most an obvious optimization to one of ordinary skill, depending upon the particular visual properties desired.

10. Claim 4 is rejected under 35 U.S.C. § 103(a) as being

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unpatentable over either Chang or Brown et al. -957 (Brown et al. -762 is cumulative), each taken individually, or in view of Ishikawa et al. The primary references are again relied upon substantially as set forth above, with the Examiner believing that the particular blend of high density polyethylene and low density polyethylene set forth in claim 4 is believed to be at most an obvious optimization to one of ordinary skill in the art.

Alternatively, Ishikawa et al. discloses (e.g. column 4 lines 12-16) the presence of such blends as being suitable embodiments for adhesive tape backings. Other parameters that are not either expressly or inherently disclosed are each believed to be obvious modifications to one of ordinary skill, in the absence of unexpected results.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note also Dettmer et al., Gobran and EPA 029579A1.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (571) 272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be

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reached on (571) 272-1478. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzirker:cdc

April 19, 2005

DANIEL ZIRKER
PRIMARY EXAMINER

Daniel Zinker